

UNITED STATES
FOREIGN INTELLIGENCE SURVEILLANCE COURT
WASHINGTON, D.C.

U.S. FOREIGN
INTELLIGENCE
SURVEILLANCE COURT
2013 NOV 26 PM 3:58
LEEANN FLYNN HALL
CLERK OF COURT

IN RE OPINIONS & ORDERS OF THIS COURT
ADDRESSING BULK COLLECTION OF DATA
UNDER THE FOREIGN INTELLIGENCE
SURVEILLANCE ACT

Docket No. Misc. 13-02

IN RE MOTION FOR THE RELEASE OF
COURT RECORDS

Docket No. Misc. 13-08

IN RE MOTION OF PROPUBLICA, INC. FOR
THE RELEASE OF COURT RECORDS

Docket No. Misc. 13-09

**MOTION OF THE REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS AND
25 MEDIA ORGANIZATIONS FOR LEAVE TO FILE BRIEF AS *AMICI CURIAE* IN
SUPPORT OF THE NOVEMBER 6, 2013 MOTION BY THE AMERICAN CIVIL
LIBERTIES UNION, *ET AL.*, FOR THE RELEASE OF COURT RECORDS; THE
OCTOBER 11, 2013 MOTION BY THE MEDIA FREEDOM AND INFORMATION
ACCESS CLINIC FOR RECONSIDERATION OF THIS COURT'S SEPTEMBER 13,
2013 OPINION ON THE ISSUE OF ARTICLE III STANDING; AND THE NOVEMBER
12, 2013 MOTION BY PROPUBLICA, INC. FOR RELEASE OF COURT RECORDS**

Bruce D. Brown
The Reporters Committee for
Freedom of the Press
1101 Wilson Blvd., Suite 1100
Arlington, VA 22209
Counsel for *Amici Curiae*

November 26, 2013

The Reporters Committee for Freedom of the Press, American Society of News Editors, Atlantic Media, Inc., Bay Area News Group, Belo Corp., Bloomberg L.P., Courthouse News Service, The E.W. Scripps Company, First Amendment Coalition, Gannett Co., Inc., Hearst Corporation, Investigative Reporters and Editors, Investigative Reporting Workshop at American University, The McClatchy Company, Media Consortium, The National Press Club, National Press Photographers Association, National Public Radio, Inc., The New York Times Company, The New Yorker, North Jersey Media Group Inc., Online News Association, POLITICO LLC, Radio Television Digital News Association, The Seattle Times Company, and The Washington Post move for leave to file the accompanying brief *amici curiae* in support of (1) the November 6, 2013 motion of the American Civil Liberties Union, *et al.*, for the release of court records; (2) the October 11, 2013 motion of the Media Freedom and Information Access Clinic (MFIAC) for reconsideration of this Court's September 13, 2013 opinion on the issue of Article III standing; and (3) the November 12, 2013 motion of ProPublica, Inc. for release of court records.

This coalition of news media organizations writes separately to emphasize that MFIAC, like all members of the public, has standing to seek access to this Court's records. While the news media have a long tradition of fighting for public access to court proceedings and records, it is important for this Court to recognize that the public at large possesses this right, and that the interests at stake can be vindicated by anyone. As the Supreme Court has found, potential harm to the public debate and erosion in confidence to the judicial system is an injury that everyone shares when access rights are denied.

Amici are further concerned that the standard that this Court applied in denying standing to MFIAC undermines the right of the news media to seek access to court records and proceedings. While it seems that a news organization that intends to report on a public

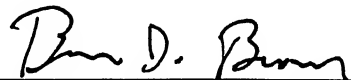
controversy would be able to satisfy the rule, a court could use it to deny standing to a media party that could not show a prior track record of covering a particular issue.

Amici additionally emphasize that the documents sought are critically important to improving public understanding of this Court and the federal government's national security operations. The public has a formidable First Amendment interest in hearing directly from this Court about its core judicial activities in interpreting the statutes that give rise to its jurisdiction. Disclosures in recent months about the scope, legality and administration of NSA surveillance programs amplify the need for access and merits attention here.

Counsel for all parties have consented to the filing of the accompanying brief.

Pursuant to this Court's order, dated July 18, 2013, and United States Foreign Intelligence Surveillance Court R.P. 7(h)(1) and 63, the Reporters Committee for Freedom of the Press respectfully submits the following information: Bruce D. Brown is a member in good standing of the United States District Court for the District of Columbia (#457317), admitted September 12, 2011. Additionally, Brown is a member of good standing of the bar of the Commonwealth of Massachusetts (#629541) and the District of Columbia (#426092). *Amici* further certify that the undersigned does not currently hold a security clearance.

Respectfully submitted,



Bruce D. Brown, Counsel for *Amici Curiae*
The Reporters Committee for
Freedom of the Press
1101 Wilson Blvd., Suite 1100
Arlington, VA 22209
Phone: 703-807-2100
Fax: 703-807-2109
bbrown@rcfp.org

Dated: November 26, 2013

CERTIFICATE OF SERVICE

I, Bruce D. Brown, certify that on November 26, 2013, a copy of this motion, together with the accompanying brief of *amici curiae*, were served on the following by in-person delivery:

Christine Gunning
Litigation Security Group
U.S. Department of Justice
2 Constitution Square
145 N ST NE, Suite 2W-115
Washington, DC 20530
Christine.e.gunning@usdoj.gov

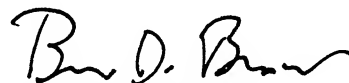
I further certify that this motion and the accompanying brief were served on the following by electronic mail:

Alex Abdo
American Civil Liberties Union
Foundation
125 Broad Street, 18th Floor
New York, NY 10004
aabdo@aclu.org
*Counsel for American Civil Liberties
Union*

Arthur B. Spitzer
American Civil Liberties Union of the
Nation's Capital
4301 Connecticut Avenue, NW, Suite 434
Washington, DC 20008
artspitzer@aclu-nca.org
*Counsel for the American Civil Liberties
Union of the Nation's Capital*

David A. Schulz
Media Freedom and Information Access
Clinic
Yale Law School
P.O. Box 208215
New Haven, CT 06520
dschulz@lskslaw.com
*Counsel for Media Freedom and
Information Access Clinic*

David Greene
Electronic Frontier Foundation
815 Eddy Street
San Francisco, CA 94109
davidg@eff.org
Counsel for ProPublica, Inc.



Bruce D. Brown